

Minutes
State Board of Education
Monday, March 29, 2004

The Arizona State Board of Education held its monthly meeting at the Arizona Department of Education, 1535 West Jefferson, Phoenix, AZ 85007. The meeting was called to order at 9:05AM.

Members Present

Ms. Nadine Mathis-Basha, President
Dr. Matthew Diethelm, Vice President
Ms. Armida Bittner
Ms. JoAnne Hilde
Ms. Evangelina “Conkie” Hoover
Superintendent Tom Horne
Ms. Joanne Kramer

Members Absent

Dr. Michael Crow
Dr. John Pedicone

Board Business

Pledge of Allegiance, moment of silence and roll call.

Minutes for State Board of Education

Motion by Dr. Diethelm to approve minutes as written for the State Board of Education meeting and Executive Session on February 23, 2004, and the Study Session on March 8, 2004. Seconded by Ms. Bittner. *Motion passes.*

President’s Report

Ms. Basha expressed thanks to the members for their commitment to fulfill their role of responsibility to Arizona citizens in participating in the Study Session in Tucson, hosted by Dr. Pedicone. This provided an opportunity for others to address the Board and see the Board in action. The April 26 meeting will be held in Chino Valley and the next Study Session, scheduled for May 17, will be in the Phoenix area.

Superintendent’s Report

Superintendent Horne had no report at this time.

Board Member Reports

Dr. Diethelm attended the National Association of State Boards of Education (NASBE) Study Group on “Closing the Achievement Gap”, held March 12-13 in Alexandria, VA. Representatives from about 15 states heard research results in the areas of corrective actions for school districts and schools that are in disadvantaged socio-economic areas. The results are uplifting in the sense that there are a lot of successes out there. Some factors being reported are not new but are a reinforcement of items already discussed by this State Board. The reports show these factors have helped to bring up the performance of these schools.

The best practices identified by the researchers:

- Strong, stable principal leadership
- School environment conducive to and focused on learning
- Effective teaching staff
- Data driven assessments

The point being made was that it is not good enough to just get data, but that the measurement data must be used to improve and enhance the school and the students’ performance. A thorough and extensive report will be published by NASBE following the June Study Group meeting.

Director’s Report

Ms. Farley reiterated that the Master Teacher conversations will be completed at the next State Board meeting in Chino Valley. The May 17 Study Session will be held somewhere in central Phoenix, either at the State Board meeting room or a school site, to be decided shortly.

An updated legislative history sheet provided to members noted actions taken to date by the legislature. Ms. Farley noted that no action has been taken on **HB 2280** to date. Regarding **HB 2352**, Ms. Farley provided an email from members in the disability community requesting the Board to keep a statutory timeframe although they are willing to discuss what that timeframe is. Ms. Farley reminded members that past discussions have addressed the issue of putting timeframes in statute by which the Board must adopt rules. To date, that has only occurred once regarding Board rules, and while every effort is made to comply, the rulemaking process is unpredictable and requires certain timeframes. To put in statutory requirements of timelines is unproductive. This Board has committed to act as expeditiously as possible and staff has dedicated a good portion of time catching up on rulemaking statutory requirements. Progress is being made in this area. Ms. Farley testified to this effect last week in the Senate Education Committee meeting and will also meet with Senator Mead and the community later this week. Ms. Farley has explained in these meetings that the issue is not how long rulemaking takes, or estimating how long it will take since the Board is happy to schedule meetings as soon as possible, but rather an overall issue of policy that a deadline cannot be dictated statutorily. Ms. Farley asked the Board for direction regarding whether she should continue to request that timelines be removed and work with groups to progress on rules, or if the Board would like to respond to the email in a different way. Ms. Hilde commented that this Board has expressed its desire to move in a timely manner, which is evidenced by the additional study sessions that are being conducted. It is evident the Board is moving forward in a timely manner and Ms. Hilde supports Ms. Farley's approach. Ms. Bittner concurs and stated the Board has acted quickly but carefully. Dr. Diethelm stated that his perception of the timeframe on the rulemaking process is not something that the State Board has a lot of control over and that in terms of doing their part, the Board has been tight. The other parts that review the rules, joint legislative groups and the Attorney General, have caused delays. Dr. Diethelm is okay with Ms. Farley's suggestion, but stressed the pressure should be on all entities to ensure the rules are completed in a timely manner. Ms. Basha also concurred and commented that Ms. Farley has done a great job in bringing these projects to the point where they need to be. Ms. Farley's goal is to do approximately two rules packages per month until they are caught up.

Regarding **HB 2393**, relative to this Board's membership, Ms. Farley stated the House Education Committee will hear the resolution to put on the ballot the membership modifications for this Board. Consideration is being given to add a charter school owner/operator to the membership. Ms. Farley communicated to the committee the desire of this Board to keep at a minimum the odd-numbered representation and forwarded numerous conversations suggesting an advisory capacity for this new position as well as the suggestion that if a charter representative is a voting member the suggestion is that a lay member also be added to make this an eleven member board. Ms. Farley will update members after Wednesday's hearing.

HB 2696, No Child Left Behind opt-out bill, is highly unlikely to move further in the legislative process.

There has been quite a bit of conversation about **SB 1316**. The direction to staff from the study session was to continue working with the AEA on an amendment, which creates an advisory committee to this Board as well as a disciplinary hearing body. The work with AEA, their legal counsel, and our legal counsel is almost completed and should this legislation move forward, turning over the disciplinary hearings for final action to this new entity should be as seamless as possible. The new commission would follow the immoral and unprofessional conduct rules already established by this Board as well as the due process hearing procedures established by this Board so there would not be a lapse in our hearings and continuous service will be provided to certificate holders. The efficiencies that were sought in the investigative process under HB 2188, which will continue to move, were also added to this legislation, so if there is a new body doing the hearings they also will benefit from those same

efficiencies. This body will also serve as an advisory group with regard to certification issues. The amendment has been drafted to include this provision and is likely to have a hearing in the next couple of weeks. Mr. John Wright was available to answer questions.

Ms. Bittner requested to hear from Mr. Wright.

Mr. John Wright, Vice President, Arizona Education Association, stated that he, Ms. Susan Sandrow, legal counsel for AEA, and Doug Kilgore, AEA Governmental Relations Director, have worked closely with Ms. Farley and other department staff members in carefully designing this board so that nothing gets dropped in taking over the review cases and that the standards are maintained. They want to assure the right give and take and flow of information to this State Board so as not to interfere with policy making responsibilities. This new entity will be a source of knowledge, input and appropriate advice from the profession.

Ms. Bittner asked how long it would take them to meet with Ms. Farley and if there were any specific areas of disagreement that should be addressed.

Mr. Wright believes the final amendment is ready to take to the House Education Committee staff today and they are waiting for Ms. Farley and/or anyone else who needs to review it, to go over it once more.

Mr. Wright clarified that they tried to work through technicalities, making this seamless and efficient.

Superintendent Horne strongly supports the discipline part of this bill. He does not, however, support the idea of legislating to this Board who their advisors should be. He indicated that he would communicate this to the Legislature as an elected official, separate from this Board.

Ms. Farley will move forward in technical advisory capacity and represent the Board's neutral positions in this legislation. Any new responsibilities that would fall under this Board, a new FTE has been allocated to handle these issues, serve as a resource to the commission and a liaison back to this Board.

The Board has taken a neutral position on **SB 1346**, and the AEA continues to work with ABEC. Ms. Farley believes they are making progress and are close to having a final amendment ready to go to the House.

Ms. Basha asked for an update regarding **SB 1362**, full-day kindergarten. Ms. Farley stated that the bill had a full hearing in Senate Education and passed out of that committee, but has not received a hearing in Senate Appropriations. This issue is fully engaged in the budget conversations that are going on in the House and Senate now and that is where final action of some level of phase-in is likely.

Superintendent Horne noted that the vote in the Senate Education Committee was 7-1 so it is very much a bi-partisan initiative.

3. CONSENT ITEMS

- A. Consideration to Approve Contract Abstracts
- B. Pursuant to A.R.S. 15-185.H, Consideration to Withhold 10% of State Aid from Rolling Hills Charter School for Violations of the School's Charter Contract and Arizona Law as Identified in the June 2002 Audit Report and Compliance Questionnaire.
- C. Consideration to Approve an Amendment to Increase Grades Served Under the Daisy Education Corporation dba Sonoran Science Academy Charter.
- D. Consideration to Approve WestEd Board of Directors Appointments.
- E. Consideration to Accept Monies from the Centers for Disease Control and Prevention Grant and Distribute the Award as Provided in the Budget as Submitted.
- F. Consideration to Approve Requesting the US DOE to Extend Arizona's Current Carl D. Perkins Grant Under the Provisions of Section 422(a) of the General Education Provisions Act.
- G. Consideration to Grant Approval, Pursuant to A.R.S. §15-952, to the School District Governing Boards as Submitted for Continuous Approval of Additional Monies for Teacher Compensation for FY 2004 – 2005.

- H. Consideration to Accept the Voluntary Surrender of the Credentials of the Following Certification Cases:
 - 1. Christine Smolenski, Case #C-2002-125
- I. Consideration to Accept the Automatic and Permanent Revocation, Pursuant to A.R.S. §15-550, of the Following Certification Cases:
 - 1. Elliot Clark, Case #C-2003-033
 - 2. Daniel Valencia, Case #C-2003-079
- J. Consideration to Accept the Recommendations of the Professional Practices Advisory Committee and Approve Certification for the Following Individuals:
 - 1. Julie Mai, Case #C-2004-004R
 - 2. Anthony C. Niccoli, Case #C-04-006R

Motion to approve the Consent Agenda by Ms. Hoover. Seconded by Dr. Diethelm. *Motion passes.*

CALL TO THE PUBLIC

No requests to speak were received.

5. SPECIAL PRESENTATION

Presentation, Discussion and Opportunity for Public Input Regarding the Definition and Characteristics of a "Master Teacher".

Ms. Farley stated the Board is following through on Governor Napolitano's request to provide opportunities for the public to comment on the Master Teacher initiative included in her "State of the State" address. A recommended framework to define Master Teachers and a process for allocating funds to reward and train Master Teachers is being created and will be forwarded to the Governor.

Ms. Becky Hill, Education Policy Advisor to Governor Napolitano, presented the goals and status of the program to date, which will focus on meeting the needs of the state including, tools to help students succeed and a statewide focus on teachers. Ms. Hill has met with Ms. Kathy Wiebke, Deputy Associate Superintendent for Highly Qualified Professionals, Arizona Department of Education, Ms. Christy Farley, Executive Director, Arizona State Board of Education and Mr. John Wright, Vice President, Arizona Education Association, and when a final recommendation is ready to be brought to this Board, more outreach into the teacher ranks and universities will be conducted.

A Master Teacher would:

- Engage in substantive ongoing professional development,
- Provide extended service to students and the profession, and
- Possess expertise in their field

Ms. Hill addressed concerns that have been raised in previous conversations:

- It is the Governor's dream that every school have at least one Master Teacher in its ranks. As a core of Master Teachers is being built, the discussion has been to take the best and brightest and put them where they are needed the most. This does not have to happen in every case and the Governor's Office is not suggesting a Master Teacher be moved around in the system.
- It is not the Governor's intent to remove the Master Teacher from the classroom. The programs that seem to work best have a combination of the Master Teacher instructing in the classroom and mentoring at the same time.

Ms. Hill reiterated there was not a final recommendation today since they are continuing to hear comments.

Dr. Diethelm commented about a district in Maryland that had outstanding success utilizing professional development. They select a teacher and appoint them to monitor all classrooms and teachers in a particular school, discuss methodology, tactics, performance in the classroom and then prepare a development plan for each of those teachers. This helped the principal work with the teachers and provided guidance for outside agencies, i.e. universities, and what form of professional development was highest priority and most needed in a particular area. This may be a function of a Master Teacher.

Ms. Hill responded that as this program develops, there may be teachers assigned to schools, but ultimately the hope is that there will be Master Teachers at every school and they will become those leaders who work with the principal and other teachers in developing professional development needs at the classroom and school level.

Ms. Basha asked if research has been done regarding whether other states have Master Teacher programs and how the supply of Master Teachers is built.

Ms. Hill stated that a great deal of research across the United States has not been done, but they have looked at a small sample of states. The key is that this is an investment in professional development which is a void in Arizona. The Master Teacher rank is not necessarily seen in state law or regulations, but is something that happens as a natural outcome of having mentors on campus who are respected by their peers, school leadership and are individuals that others can follow. Ms. Hill added that this program is an effort to formalize this process because of its value.

Dr. Diethelm cautioned that we have a tendency to try to get too far too fast. The first step should be to define a recognition and personal motivation program, then a separate question is how to best apply our finest resources to bring up the professional quality of all teachers.

Ms. Hill reiterated that for practical purposes a Master Teacher has to first be defined and then the decision as to how to use the resources could be made. Another limitation is money. The Governor was able to find some seed money, however more than \$250,000 will be needed for a long-term state-level professional development plan. There is an ongoing effort to identify those resources with the private sector and then at the state level as the economy improves.

Dr. Eugenia R. Echols, Intel Corporation and Intel Foundation, Chandler, Arizona, addressed the Board in support of the Master Teacher program. Dr. Echols presented background information regarding the Intel®Teach to the Future program. (Please see handout provided)

Further discussion ensued regarding how this happens at the classroom level with a 3-5 teacher cadre who design lesson plans and work with a Master Teacher or another participant. Also seminars are provided one to two times per quarter with a Master Teacher. The Master Teachers are volunteers from various school districts, are trained at an LEA, the regional training authority is ASSET at Arizona State University where they have received training and are dispatched to schools to work with Master Teachers throughout Arizona.

Ms. Basha asked how technology is implemented or furnished. Dr. Echols explained that it depends on the school district. Certain districts in the state have the technology to develop very broad and deep integration programs and other districts struggle with having the technology infrastructure. If the school is an Intel partner district, Intel donates a computer lab to that school to help strengthen their ability toward developing a classroom.

Ms. Hilde asked if there is an assumption that Master Teachers come with technology-based ability or integration into the curriculum and instruction or is the 40-hour training primarily targeted toward the use of technology. In follow up, Ms. Hilde asked if there is some process where a judgment is being made about a teacher's master level achievement that is beyond the technology aspect.

Dr. Echols explained that they assume the teachers have very little technology information and computer skills. Over the 40 hours, the teachers experience web design, simple Lotus spreadsheets, Excel, PowerPoint, etc., starts out small and grows. In addition, they provide additional understanding of student-led learning and problem-based learning.

Ms. Bittner commented that in her county, every school district belongs to ASSET with a number of teachers in Payson who are receiving this training. She asked if these teachers can be borrowed to be brought into other classrooms rather than sending them to a neighboring school?

Dr. Echols responded that not all districts have an Intel®Teach to the Future Master Teacher. There are times when a teacher is sent from one district to facilitate Intel®Teach to the Future in another district. That is part of the design of the model. At this time there are over 10,000 teachers who are familiar with the Master Teacher model and could be the beginning of discussions on how to design the implementation in Arizona.

Ms. Bittner asked because some school districts in northern Arizona have dirt roads and don't have technical connections. These districts could be moved into the technology capabilities once all the wiring and necessary equipment is in place.

Dr. Echols asked Ms. Farley to get information on these schools/districts and they will look into it.

Ms. Basha expressed the Board's gratitude for Intel's work in this area.

Ms. Farley reminded members that as the Board meets next month in northern Arizona, there will be another opportunity for discussion. Ms. Farley suggested putting together a small working group to include representatives of the AEA, classroom teachers, school administrators, superintendents, principals, Intel, Ms. Hill, Ms. Farley, and ASBA, to put together an overview of all the programs that have been looked at to date, bring closure to some of the initial recommendations heard, and make recommendations that the Board can put out to the field for further conversation.

Superintendent Horne suggested that Phyllis Schwartz, Associate Superintendent of School Effectiveness, Arizona Department of Education, has had approximately 350 outstanding teachers and administrators apply, be screened and trained for Solutions Teams. The process of identifying outstanding teachers is well advanced.

Ms. Farley will include the criteria used in this process in the overview to be provided at the April meeting.

Ms. Basha believes the members are in agreement for Ms. Farley to establish this working group to bring recommendations to the Board.

6. GENERAL SESSION

A. Consideration to Accept the Recommendations of the Professional Practices Advisory Committee and Deny Certification for the Following Individual:

1. Mary Zordan

Mr. Yanez presented background information.

NOTE: Superintendent Horne recused himself from this item as he has had business transactions with Ms. Zordan in the past.

Mr. William Holder, Attorney for Ms. Zordan, addressed the Board and presented the history of Ms. Zordan and this matter. Mr. Holder emphasized that the state dismissed the aggravated assault charge and pursued the other two. They think this is significant because it shows Ms. Zordan did not hit a police officer. He added that the DUI charge was set aside on appeal and then dismissed on the grounds that there was no evidence she was driving, but was a pedestrian at the time she came to the attention of the police officers. Regarding resisting arrest, Ms. Zordan pled guilty solely because her actions fit within the definition of resisting in that she backed off from the two male police officers when they came to arrest her. She served four months of probation and the charge was later reduced to a misdemeanor and expunged pursuant to her probation officer's request. She has had no arrests in her life before or since and has numerous good letters of reference. Mr. Holder stated that the PPAC completely disregarded Ms. Zordan's testimony but chose to believe a police report, which was hearsay. If Ms. Zordan had struck a police officer, surely the state would not have dismissed the aggravated assault charge.

Therefore the more credible version of the incident is Ms. Zordan's. The second crucial fact ignored by the PPAC was that Ms. Zordan was intoxicated on the night in question. Regardless of the form her actions took they were not reflective of her normal self and therefore they are not evidence of her fitness to teach. This was a once-in-a-lifetime incident. She does not have a continuing problem with alcohol. Her actions should not bar her for life from the teaching profession. She had not taught for seven years prior to this incident; therefore, her actions could not have affected the school community and have no relevance to her fitness to teach under normal conditions. The recommendation of the PPAC in Mr. Holder's and Ms. Zordan's view is arbitrary and the most striking illustration of that is by comparing this case to Item 3J2 on the agenda, which the Board just passed, involved a teacher with three DUI convictions, a history of verbal threats, disorderly conduct and possession of drug paraphernalia up to within the last three years. To his credit, as the PPAC found, that teacher got treatment for his alcohol

problem. In comparison, Ms. Zordan has one arrest, a misdemeanor expunged, does not have a continuing problem with alcohol and she is being denied her certificate. It is arbitrary. How do you explain that? Mr. Holder gave two possibilities:

- Maybe Mr. Holder got Ms. Zordan on the wrong side of the PPAC by contending in writing that the chairman violated her constitutional rights by asking her at her first meeting whether she was driving while intoxicated that night.
- Ms. Zordan's "diminishing sense of remorse." It has been 5½ years since the incident. She did not engage in the kind of gut-wrenching apologies that are more common in front of the PPAC. Maybe she feels that way because of the length of time since the incident, she served her probation, received a fingerprint clearance card in June 2003 and served a 16-day suspension with the Department of Real Estate, but the PPAC found that she did not realize the seriousness of this. Mr. Holder emphasized Ms. Zordan's remorse at the time and the probation officer's report that states "She has admitted to making a big mistake in the commission of her offense and is adamant that she will never be involved in that type of behavior again." Mr. Holder stated that this was a showing of remorse that the PPAC ignored.

Mr. Holder pointed out that the state could have objected to an early release, but didn't. The PPAC did not follow the legal standards that the Board told them to when the case was remanded to the PPAC for reconsideration. Instead the PPAC followed the same analysis as they always have, which is in their findings, the aggravating and mitigating factors and the recommended penalty. This is the same type of analysis a judge goes through in a criminal case post-conviction in sentencing. It is not rocket science to figure out the appropriate analysis in a case like this in light of the Winters' decision. It is still four steps:

- Did she engage in unprofessional conduct
- Does the conduct have a reasonable likelihood of affecting the school community
- Does it evidence an unfitness to teach
- If the answer to all three is yes, what is the appropriate penalty. If the answer to any one of the questions is no, there should be no penalty.

Mr. Holder suggested the PPAC did not do this because the facts don't support a conclusion. Mr. Holder did grant that the PPAC put the right magic words at the end but don't state any factual evidence for it. At the end the PPAC says, "Evidence is unfitness to teach and an adverse affect on the school community" but they don't tell why. Mr. Holder said they don't tell why because there isn't any evidence. He said this is not evidence of her unfitness to teach because of her intoxication on that one particular night and it did not adversely affect any school community because she hadn't been teaching for seven years at the time. He stated there is no evidence that it affected anybody other than the certification authorities who properly did their job in investigating it.

Ms. Zordan addressed the Board, stating her teaching certificate is one of her most prized possessions and thanked her attorney and Mr. Horne and the Board for the opportunity to make a second presentation to the Board. Ms. Zordan re-visited issues regarding the incident and made clarifications regarding her resisting arrest. Ms. Zordan explained the disciplinary action taken by the Arizona Department of Real Estate was a result of her failure to notify them of her DUI conviction within the allotted time frame, because she did not know about the time frame rule. When she was made aware of that rule, she made a complete disclosure and her license was reinstated within 16 days. Ms. Zordan referred to her numerous letters of recommendation and teaching evaluations provided in the packet of materials for the Board. Ms. Zordan stated she has not been involved in an arrest or incident of this nature prior to or subsequent to this particular incident almost six years ago. All prior charges have been dismissed and expunged by state courts. Ms. Zordan assured the Board she did nothing violent, but when the officers said they were going to arrest her and came at her, her natural reaction was to back off. She stated she knew the seriousness of this situation and was terrified. She stated she was slammed onto the hood of her car and hit with a night stick. Ms. Zordan stated this was violent but she did not initiate it

nor does she feel a show of brute strength was necessary to arrest her. Again, Ms. Zordan stated the state dismissed the aggravated assault charge. Regarding failure to acknowledge the seriousness of the incident, Ms. Zordan assured the Board that she does acknowledge the seriousness of this incident and has had reoccurring nightmares about it. She stated she would never put herself in that type of situation again. Regarding resisting arrest, Ms. Zordan stated she reacted and backed off. She is very disappointed that the PPAC chose to interpret this as her lack of respect for authority. Regarding disrespect for professional standards, Ms. Zordan stated she has the utmost respect for professional standards. Since this incident Ms. Zordan has been elected and served as chairperson of the ethics committee of the Valley Board of Business Brokers, having been elected to this position by 75 of her peers. Regarding evidence of unfitness to teach and adverse affect on the school community, Ms. Zordan feels that what happened six years was an isolated incident and has no bearing on her fitness to teach. The school community could not have been affected, as she was not teaching at the time of the incident. Her last year to teach was 1990-1991. No student, child or school was involved, it did not occur on a school campus and no school community was involved. Ms. Zordan urged the Board to renew her teaching certificate. She stated, again, that she was disappointed that the PPAC chose not to respect the authority of the state courts in their decision to dismiss and/or expunge all of these charges from her records. Ms. Zordan stated she somehow felt she was on trial again by the PPAC with their disregard to the rulings of the state courts and they are trying to give her a life sentence by having her certificate denied and having a means of making a living taken from her. Ms. Zordan reiterated that a teacher appeared at the PPAC meeting on March 10 before her, who was trying to get approval for his certification. The charges against that teacher were being arrested three times, DUI, trespassing, shoplifting, disorderly conduct, verbal threats and possession of drug paraphernalia all within the last 2-3 years. He was approved by the PPAC for certification. Ms. Zordan re-stated that she has one misdemeanor conviction that has been expunged and happened almost six years ago, and the PPAC decided to deny her certificate renewal. Ms. Zordan stated that in her opinion this is simply inconsistent and unfair on the part of the PPAC. Ms. Zordan asked the Board to consider all the documentations that she and Mr. Holder have presented today and urged the Board to abide by the ruling of the state courts and trust the Board's decision will be to allow her to renew her teaching certificate.

Ms. Hoover asked if Ms. Zordan was required to serve 100 hours of community service and Ms. Zordan answered, "no." Ms. Hoover asked if Ms. Zordan was required to attend any programs for alcohol like AA. Ms. Zordan replied that she attended 18 or 20 classroom hours while the DUI was pending in Superior Court, which was a requirement of the court at that particular time.

Dr. Diethelm asked Ms. Zordan why she thought the PPAC recommended denial.

Ms. Zordan replied that she didn't know. She said that the first time they said it was because of her candor. She stated that sometimes she is very direct then said she did have some feelings but would rather not say. Ms. Zordan continued that she would say and stated that basically she thought the chairperson of the committee swayed the PPAC to deny. Ms. Zordan stated, "As a chairperson votes, so does the committee" was her perception.

Mr. Holder pointed out as a factual matter regarding the case they are comparing to, the chairperson was not present for the deliberations, and for Ms. Zordan's case, he was.

Ms. Hoover stated that the background material is not previously available to Board members, but is available on a later date, so it is difficult to read and absorb all the background information. However, Ms. Hoover asked Ms. Zordan about a statement in one of the documents which stated that the officer was struck in the head or kicked in the head and Ms. Hoover did not understand how that happened if Ms. Zordan was backing away from him. Ms. Zordan stated this was part of the police report and it was not true. She stated it did not happen.

Ms. Hilde stated her concern regarding Mr. Holder's comment that the police report would be considered hearsay. The report is written in the first person and to Ms. Hilde, is not hearsay, but written by someone who was there.

Mr. Holder explained that hearsay is a statement by a person who is not present and who is not subject to cross-examination. In this case, the statements of the police officer in the report, since the police officer is not there to be cross-examined, fit within the definition of hearsay. They do fit within two exceptions: 1) business records and 2) reports like this are normally admissible in hearings like this. However, Mr. Holder stated that his point is this does not mean they can necessarily be believed and given more credibility than that of Ms. Zordan who is available to be cross-examined. Motion by Dr. Diethelm to adopt the findings of the PPAC and deny certification for Ms. Mary Zordan. Seconded by Ms. Hoover. *Motion passes.*

- B. Presentation, Discussion and Consideration to Approve the English Language Learner Assessment Contract Award, Including Consideration to Adopt this Assessment as the Single Assessment for Identification and Fluency Assessment of English Language Learners.

Mr. Doug Peeples, Manager, Contracts and Purchasing Unit, Arizona Department of Education, stated he has determined to award a contract to Harcourt Assessment Incorporated, San Antonio, Texas, for their Stanford English Language Proficiency Test to provide the services required in the proposal. This proposal was determined to be most advantageous to the state based on the evaluation criteria set forth in its solicitations. (Please see Notice of Award provided in materials packet)

Member of the public addressing the Board regarding this item:

Dr. Carlos Ovando, Associate Dean for Teacher Education, Arizona State University, suggested that the conversation with the committee should include assessment experts from the three universities and he would make that recommendation for consideration. As the committee is constituted now there are no assessment experts from the UofA, NAU or ASU.

Dr. Diethelm asked, in Dr. Ovando's opinion, what might have been different had those participants been included?

Dr. Ovando responded that he would like to think that some who have given their life to examining second language acquisition matters should be consulted as a matter of protocol.

Dr. Diethelm asked that in the process of establishing requirements in the RFP as well as in the review, if there was a broader input from the teaching field in the state in addition to those listed on the review team.

Ms. Irene Moreno, Deputy Associate Superintendent, Academic Achievement Division, English Acquisition Services Unit, Arizona Department of Education, responded that through the development of the proficiency standards several processes were gone through and representatives from these institutions were included.

Dr. Diethelm asked if this was a standard test that all states are using.

Ms. Moreno replied that because it is through NCLB, the requirement is to have a single assessment based on our proficiency standards. The test ready for approval today is an off-the-shelf test for now. Further discussion ensued for clarification regarding the tests being aligned or linked to the state academic standards, which is a requirement of NCLB.

Ms. Hilde asked if the response time and required information was in the RFP and Ms. Moreno answered that ten working days from the time the company receives the test to getting it back was specified. Further information regarding district and federal government requirements will be discussed for reporting.

Ms. Bittner stated that Ms. Moreno has gone out of her way to include all segments and expressed concern regarding Dr. Ovando's statement. Ms. Bittner asked if there was a timeframe that the contract must be offered and Ms. Moreno stated that ideally, it would be immediately, because districts are currently working on their test budgets. Ms. Moreno also apologized regarding no representation from the state universities. University representatives were a part of writing the proficiency standards and those standards were used to prepare the rubric for the test. Ms. Moreno's team felt that university participation had been included in this process, but publicly apologized to Dr. Ovando and ASU for

insufficient solicitation, which was not intentional.

Ms. Bittner asked the range in costs of the proposals. Mr. Peebles stated the recommended provider is offering a 25% discount from the catalog price. A price guarantee on a per-student-tested basis was also requested as a protection for smaller districts, which is \$8.50. In addition to the discount and \$8.50, they are also asking for \$67,000 for data gathering and data reporting necessary for NCLB. A lower offer was submitted but it was not as highly aligned to our standards.

Ms. Bittner asked that once there is an approval of the Harcourt Assessment, what time period is involved to review the contract and is it a multi-year contract?

Mr. Peebles stated the initial contract is from the date of approval through June 30, 2005. There are four additional options to renew that for up to a total of five years. If the contractor's performance is acceptable, the contract will be renewed for the following year, making it possible to have this contract in place for five years, on a year-by-year basis.

Ms. Basha expressed her concern about the proposal review team. Ms. Basha stated that she understands what the standards are and that the tests need to align to those standards, but asked if the assessment is a little different and requires a certain level of expertise that is unique from establishing standards, so that we would want that expertise?

Ms. Moreno replied that with assistance from Cindy Turner and Susie Seibert from Aha, and Susan Pimentel, who assisted in writing the standards, two rubrics were used that could be used to rank the offerors. One rubric was for alignment and the other for method of approach. ELL standards were collapsed to some degree and items that were not appropriate for assessment were eliminated. This rubric is the same one seen by the offerors with the exception of adding a point system. Reliability and validity issues were also checked in terms of depth of the test and whether it would hold up to a certain criteria, .8 for validity.

Ms. Basha stated her concern was not from a validity or reliability perspective, but rather the issue of inclusion of the universities and as we move ahead, the tone of this Board has been inclusiveness and asking the department to be as inclusive as possible, to create partnerships and at certain points it is incumbent upon ADE to have these individuals at the table. We are asking more of the universities and we need them to be part of the process.

Ms. Moreno reiterated that because the universities had been involved in the process, she believed this was sufficient enough and apologized again.

Motion by Dr. Diethelm to approve the award of the Arizona K-12 English Language Learner Proficiency Assessment Instrument to the recommended contractor, Harcourt. Seconded by Ms. Kramer. *Motion passes.*

Motion by Ms. Hilde to approve this English Language Learner Proficiency Assessment as the only Board-approved assessment for use in assessing English language proficiency pursuant to R7-2-306, replacing the current list of four tests approved by this Board. Said Assessment will be effective as of July 1, 2004. Seconded by Ms. Bittner. *Motion passes.*

Dr. Diethelm asked why we didn't like having four tests and we think it's going to be better having one.

Ms. Moreno stated this is a requirement of NCLB in order to get baseline data information to the feds.

Dr. Diethelm asked for Ms. Moreno's opinion as to whether this will be effective and Ms. Moreno replied they were absolutely sure and that the districts are thrilled about it, also.

Ms. Kramer suggested that perhaps as the first year comes to an end and the review process begins, that a member of the university be included on the evaluation team. Mr. Horne responded that the Department has had extensive representatives from the universities on many issues and have an expert from ASU West who advises on testing issues and will be happy to include university personnel on the evaluation team.

Board took a brief break at 10:50AM and re-convened at 11:15AM.

C. Consideration to Determine Non-Compliance with The Uniform System of Financial

Records (USFR) Pursuant to A.R.S. §15-272 and Consideration to Withhold State Funds
From the Douglas Unified School District.

Ms. Dena Epstein, Assistant Attorney General, presented background information regarding Douglas Unified School District's non-compliance with the USFR. In addition, Ms. Epstein mentioned the criminal investigations occurring with respect to former school district officials and that nothing in this agreement effects those investigations in any way. The purpose of the Auditor General's review and USFR monitoring that this Board engages in is to assure that the district has systems in place to insure the appropriate responsible use of public funds. This agreement has gone to the school district governing board as well as being discussed with Ms. Epstein and Ms. Farley. Ms. Maude Hagerty and Mr. Greg Richert from the Auditor General's Office were also present should any Board members have further questions. Dr. Diethelm asked to hear from district representatives.

Ms. Gail Zamar, Interim Superintendent, Douglas Unified School District, expressed her true commitment to the district along with other representatives from the district present today including Mr. Danny Ortega, Governing Board President, Mr. Tim Leedy, financial consultant and advisor, and Caroline Szymanski, consultant in financial matters.

Mr. Leedy expressed that they concur with the provisions of the consent agreement and appreciate the efforts of Ms. Farley, Ms. Epstein, Mr. Max Jarrett of Udall, Shumway and Lyons, P.L.C., and the Auditor General's Office for their assistance in its development. Mr. Leedy noted a full time school official with knowledge of school law and USFR will be hired in the near future. He expressed the district's desire to focus on the future and bring the district into USFR compliance as quickly as possible and they feel confident that this can be accomplished within six months.

Ms. Farley pointed out the implementation plan that is attached to the consent agreement, which the district drafted for their steps in coming into compliance which addresses each of the issues in the Auditor General's report.

Ms. Hoover pointed out a typo in Recommendation 5 and the word "district" should be added for clarification, "The District should comply...".

Motion by Dr. Diethelm to approve the consent agreement of the Douglas Unified School District. Seconded by Ms. Kramer. *Motion passes.*

Ms. Basha thanked personnel from Douglas USD for their diligence and wished them the best of luck hoping this will come about quickly.

D. Presentation, Discussion and Possible Consideration to Approve Notice of Supplemental Rulemaking for R7-2-612 and R7-2-613 Regarding Early Childhood Education Certificates and Endorsements.

Ms. Karen Woodhouse, Director of Early Childhood Education, Arizona Department of Education, representing a large group of early childhood education practitioners who have been actively engaged in this process for over three years, gave background information on this item. (Please see Agenda Item information sheet)

Ms. Hilde expressed her appreciation for the awareness around the issue of pre-school teachers who have not been required to be certified or have a college degree. Ms. Hilde spoke passionately regarding the unintended consequences and that a four-year timeline is rather serious. She is still concerned about the number of experienced, highly successful teachers that may be lost in the first transition period.

Ms. Basha spoke from the work of the School Readiness Board, which targets how to provide scholarships and incentives for those individuals to get advanced degrees. The School Readiness Board has a partnership with ASU and was awarded a \$1.6M grant to train early childhood educators. There is a general awareness in the field regarding the importance of this matter.

Ms. Farley pointed out that this is a supplemental rulemaking to the existing package including modifications for the grandfathering provisions for existing kindergarten teachers, which came out of the extensive public comment that Ms. Woodhouse initiated through the online surveys and through public hearings. If individuals are interested in subsequent public hearings, they may request it through the

State Board of Education Office. Final rules are expected to be presented to the Board toward the end of summer.

Ms. Basha thanked the Superintendent for the Department's focus on early childhood education. It is critical that this be addressed as many children don't have the opportunity to come to school ready to be successful.

Mr. Horne also thanked the President for being the state's leader in early childhood education.

Motion by Dr. Diethelm to approve notice of supplemental rulemaking for the Arizona Early Childhood Education Certification and Endorsement, R7-2-612 and R7-2-613. Seconded by Ms. Kramer. *Motion passes.*

E. Presentation, Discussion and Possible Consideration for Action Regarding C.I. Wilson Charter School's Proposal for Charter Consolidation as Required by the Consent Agreement with the State Board of Education.

Ms. Kristen Jordison, Executive Director, Arizona State Board for Charter Schools, presented an update on the status of C. I. Wilson Charter School informing the Board that paperwork to initiate the consolidation of the four charters into one in compliance with the agreement have been received.

Documentation reflecting this merger was received on March 26, 2004. Staff will work with the school to clarify concerns and request additional documents necessary to complete the consolidation.

Additionally, a testing calendar was received on the same date so the administration of the tests may be monitored, however, the calendar does not follow the allowable dates from ADE. She also informed the Board of non-compliance with the ASRS.

Dr. Diethelm asked if Ms. Jordison's sense is that, with attention to the details outlined, C. I. Wilson is on track.

Ms. Jordison stated there are some concerns if there are not changes with the testing, but C.I. Wilson is meeting the deadlines and seems to be making progress.

Dr. Diethelm repeated Dr. Crow's admonitions, stating there is good progress, the Board is proud of them, there can be no excuses, and to get it done.

F. Review of Statutory Requirement to Withhold Classroom Site Fund Monies to the Following Schools for Failure to Submit a School Improvement Plan as Required by A.R.S. §15-241 by the Required Date. Subsequent Submittal Requires Withholding of Funds for a Period of 90 days Plus Each Day the Plan was Late:

1. Baboquivari High School, Indian Oasis School District
2. Jeddito School, Cedar Unified School District
3. Julia Keene Elementary School
4. Shonto Preparatory Academy, Shonto Board of Education, Inc.

Ms. Cheryl Lebo, Associate Superintendent for Teacher Quality, Arizona Department of Education, for Ms. Phyllis Schwartz who was ill, presented background information regarding the requirements for submitting school improvement plans.

Dr. Diethelm asked if withholding begins on the day after the report is due.

Ms. Farley clarified that this is a statutory requirement and it is only on the agenda for Board members' awareness. Withholding begins immediately the day after a report is due and has not been received.

Members of the public who requested to address the Board:

Mr. Mark Schnizlein, Superintendent Indian Oasis School District made three points:

- Statute allows schools 90 days upon notification to submit a school improvement plan. The notification may have been posted on the ADE website on October 15, but schools were notified in writing the last week of November. Based on the written notification, they did indeed meet the 90-day requirement.
- The actual time allotted schools to formalize a quality plan is too short. The notebook from ADE was received on or about the first week of December, which gave only 2½ weeks before Christmas and 1½ weeks after Christmas to formalize a quality plan. Their principal and team

began working on a plan immediately upon receipt of the notebook. Some of the required information was not readily available to the team. The team felt they could not submit a complete plan with inadequate information. The principal requested an extension to the deadline and was told it was unsure if extensions would be granted but it was absolutely necessary the plan be submitted 100% accurate and complete the first time. The principal could have and probably should have submitted by the deadline a plan that was less than 100% perfect but she was led to believe it was better to wait until all the information was accurate and the plan was 100% complete before submission.

- They believe that penalizing the pocketbook of teachers for an administrative error is unfair. They now recognize that not submitting by the deadline was an error and that they should have submitted an incomplete plan by the deadline and amended the plan later. Teachers do not deserve to be punished financially for an administrative error in judgment.

Mr. Schnizlein stated that their missing a deadline was not an act of irresponsibility but was a sincere attempt to submit the best, most accurate, complete plan possible.

Mr. John Wright, Vice President, Arizona Education Association, pointed out that teachers are being punished for an administrative error. This is implementation of very poor statutory language, which has bad consequences for administrative negligence. These funds go almost entirely to teacher compensation, which is pay teachers are earning and will not receive. Next year, perhaps during the legislative session, work could be done to craft something more appropriate for the consequence of not following the school improvement plan. This is certainly inappropriate.

Mr. Horne stated he would be happy to work with Mr. Wright on legislation.

Ms. Basha stated this is something the Board would like to follow through on. The intent is never to punish teachers in the classroom as they do their job day in and day out for an administrative error.

Ms. Lebo stated the information given to those schools who called was always that they must abide by the deadline, recognizing that it was difficult for some, because the Department has no control over those issues.

G. Presentation and Discussion of Recent Activities Regarding the AIMS Dual Purpose Assessment and Consideration to Approve the AIMS Dual Purpose Assessment Contract Award.

Mr. Doug Peeples, Manager, Contracts and Purchasing Unit, Arizona Department of Education, presented the Notice of Award and asked the Board to approve the award of the AIMS Dual Purpose Assessment Contract to CTB McGraw-Hill, Monterey, California. (Please see Award Determination/Notice of Award in materials packet)

Members of the public who addressed the Board on this issue:

Mr. Jeff Galt, President and CEO, Harcourt Assessment, Inc., San Antonio, Texas, current vendor of the Arizona AIMS program and publisher of the Stanford Achievement Test series. Mr. Galt spoke as a father of four children in public schools and on behalf of the hundreds of Harcourt employees who have proudly worked for the Arizona Department of Education to build the AIMS program into one of the premier assessment systems in the country. Harcourt was awarded the AIMS contract following problems during the 2000-2001 administration by the previous vendors including CTB McGraw-Hill with reports that had errors and were late in excess of one year. Under Superintendents Molera and Horne, Harcourt has developed strong partnerships with district and school personnel to insure smooth and timely administration and accurate and on-time reporting.

Dr. Joanne Bauman, Director of Research and Assessment, Scottsdale Unified Schools, has worked with the Arizona Technical Advisory Committee and the Arizona Department of Education on the AIMS program. Dr. Bauman mentioned some difficulties that have been encountered with CTB in the past and wondered if these can be rectified at the present. Regarding the AIMS program, CTB had issues with calibrating items for the writing subsection and Dr. Bauman was somewhat disappointed in CTB's lack of appropriate response to some of these issues. Since that time, in working with Harcourt, those same

issues have not surfaced and have been adequately addressed. From the standpoint of research and assessment, Dr. Bauman deals with the people at the testing company and Harcourt has been immeasurably easier to deal with, responsive to district requests, questions and issues, and Dr. Bauman would like to see that level of cooperation continue. Regarding stability of measurement and the changing targets at school districts, Dr. Bauman feels it is best to stay with the same type of test that can then be used by school personnel and parents for comparison to prior years. She urged the Board to spend some time looking at the two companies and delay a decision.

Mr. Kelly Powell, Director of Assessment, Madison School District, has been through this process three times and stated that any one of the three companies mentioned could carry out the task. He urged the Board to stand behind the review committee's recommendations. Mr. Powell said the RFP posted online is more detailed than any that has been let for a state testing program, being very specific in what was being asked. He urged the Board to consider the reputations of the people on the committee, noting that it is a difficult decision to not go with the incumbent.

Dr. Wade McLean, former K-12 Superintendent and member of the State Board, Tucson, Arizona, complimented the committee for their hard work and stated how supportive he was of this decision. He believes the Dual Purpose Assessment is going to be successful and will free up time for teachers. Dr. McLean stated he did not read the RFP or proposals but stated that those who have helped write and review the assessments know what is best and what needs to be assessed in the classroom. In addition, Dr. McLean reiterated that the turn-around time promised to teachers will be important in assisting them in working with principals to make modifications for the next school year. Dr. McLean urged the Board to give the Superintendent of Public Instruction whatever tools necessary to insure this happens.

Ms. Hoover commented regarding the scores earned by each applicant and the emails that have been received stating opinions about the applicants and she wondered if Dr. McLean had an opinion about the providers.

Dr. McLean reiterated that he did not review the proposals, that they are all fine companies, but that the Board should concentrate on whether they can provide valid reliable assessments, turn-around times within the parameters of the proposal, and a fair price.

Superintendent Horne stated that he played no personal role in the review process, but thought it was better to leave it in the hands of the professionals. Regarding the \$7M difference in pricing, he did play a role in going to the legislature and asking for a supplemental \$2M in the '04 budget and \$5M in '05 to pay for testing. If the bid had been awarded to the provider that is \$7M higher than the low bid, he would have had a difficult time persuading the legislature.

Mr. Alan Button, Vice President, CTB McGraw-Hill, expressed the process was rigorous and they are thrilled at being given the highest point rating. Mr. Button addressed some important issues raised by the Board and speakers:

- Scoring on the first tests. CTB was a member on that team, doing the research, but they did not do the scoring. They were not one of the principal companies and apologized for the inconvenience. CTB is the program manager for the new project, doing the development, scoring and reporting as a single entity. They have a high degree of confidence that they can perform exceptionally well. CTB has brought a great number of resources trying to regain a status in the state of Arizona. Mr. Button would not be before the Board today if he were not confident they could do an exceptional job.
- Providing service to the state. One issue mentioned was keeping an open dialogue going. CTB has proposed to the state they will open an office here, with the Program Coordinator residing with the Arizona Department of Education. This will promote active communication and enables them to be more responsive than in the past.
- Experience. CTB has taken nine states, prior to Arizona, into a Dual Purpose Test. CTB knows how to do this. They have done it before.

- CTB's reputation as a company of high integrity, keeps commitments, even at the cost of profit motivation. CTB will be here with the state doing what it takes to make sure this is a successful testing for AIMS.

Dr. Diethelm pointed out that the timeframe, accuracy, reports broken down into individual student data, allowing for appropriate intervention as required and adaptation of curricula over the summer for the following fall are all essential. This is more information than has been received in the past and Dr. Diethelm stated his interest in Mr. Button's view of how this will come about quickly and accurately. Mr. Button addressed these concerns by stating:

- CTB has four scoring centers and an incredible amount of capacity. Currently they are delivering scoring for 23 of the 50 states on their state tests.
- Timeliness and accuracy are the two big issues everyone has and CTB will set this up with Arizona being very clear about our expectations.
- Regarding how this happens, there will be a re-norming, in a process called equating, where the new test is given with the old test in parallel and norm across to it. Mr. Button stated they would be happy to bring someone in to speak to the Board about how this will be accomplished.

Dr. Diethelm asked what the turn-around time is for other states and how much detail is included.

Mr. Button stated the requirements vary with each state and there is not a standard turn-around time, but rather specific dates are set. Arizona's will be different than other states.

Ms. Hilde asked for clarification regarding the turn-around time from the time the test is received until the scoring must be returned.

Mr. Peeples stated there is a 30-day turn-around time in the contract for scoring.

Ms. Hilde asked what the penalty is if this date is not met.

Mr. Peeples stated the liquidated damages in the contract are set at the rate of \$5000/day up to a maximum of \$250,000.

Ms. Kramer asked if this was per school.

Mr. Peeples clarified this is on a statewide basis and that this is the same as the current contract. These provisions are primarily to keep the contractor honest, giving a tool in contract administration persuading the contractor to comply.

Ms. Hilde stated she understood the difference in the contract with CTB is \$7M less and asked what their bid was.

Mr. Peeples replied that their bid was slightly under \$45M for the five years of the contract.

Ms. Hilde if they automatically go from the 3-year contract with an availability of two more years.

Mr. Peeples stated it was considered on a five-year basis. The contract is a three year contract with options to renew for two additional terms of one year each for a five year contract. Contractors were asked to give pricing for five years and over the five years of that contract, the price proposed from CTB was slightly under \$45M.

Dr. Diethelm asked if this is linear.

Mr. Peeples stated there are decrements in the price in the fourth and fifth years.

Ms. Hilde asked if there is a reflection of the scoring by the three companies that would indicate a greater weakness from one provider than another.

Mr. Peeples replied no. They were pretty evenly distributed. Mr. Peeples further clarified the pricing and points structure as outlined in the materials. Three areas in the evaluation process in descending order of importance were:

- Technical approach and implementation plan; (37% of total)
- Offerors expertise, experience, reliability; (30% of total)
- Price; (29% of total)
- Evaluation of options (approx 5%)

Mr. Peeples explained that the companies were equal on method, very close on expertise with a difference on price.

Ms. Hilde asked Mr. Peeples to address department requested options.

Mr. Peeples gave on-line testing as an example of one of the requests. Harcourt received consideration for the proposal they submitted. Another option requested was pricing options so that the state could decide whether to change the policy so BIA and private schools would have to pay for tests the state is currently paying for. Another request was to consider the testing of virtual schools and home schooled students and also a price that could be written into the contracts for school districts that require special services above the contract award that the school could buy against.

Ms. Hoover read from an email received from Dr. Alex Duran, stating that he felt the liquidated damage clause was extremely lax.

Mr. Peeples responded that the Department doesn't ordinarily put liquidated damages into a contract but it can be used to insure compliance.

Mr. Button reiterated that CTB was working with NCS in the past doing the development and research but not the scoring.

Ms. Hilde referring to the lax nature of the penalty that Dr. Duran eluded to, asked if the penalty is effective if one school district doesn't receive its' reports and if the \$5000/day rate for each day is applied or \$5000 gets pro-rated. In the past, Ms. Hilde has heard conversations about late and/or inaccurate tests that are no longer valid once they were received. This amount of penalty doesn't seem like very much money.

Mr. Peeples stated there may be some reasons for an excusable delay, perhaps where the school district has delayed in providing the scoreable documents back to the contractor. The time starts counting against the contractor when they have received all documents from the school and can begin the scoring process.

Superintendent Horne clarified the question by stating that if the contractor is one day late for one school, do they owe us \$5000.

Mr. Peeples stated we have never been in a situation where these liquidated damages have been administrated before.

Superintendent Horne stated the contract provides that they are to provide all materials in a timely basis. Is there a provision in the contract to pro-rate?

Mr. Peeples explained that if the school submits all materials on time and the contractor is late in returning the reports for that school/district for one day, they would be assessed a penalty for that day, for the full \$5000. There is no provision in the contract to pro-rate the fee.

Ms. Epstein explained that in general the contract incorporates all procurement code statutes and regulations, which governs the contract and affords the Board broad enforcement powers. Any records can be requested at any point and should there be a contract claim that cannot be resolved by mutual agreement, the state has the ability to refer the matter to the Director of the Department of Administration for a hearing.

Mr. Peeples stated that over the past three years this clause has been used to the state's advantage by using aggressive contract administration and working with the incumbent contractor to rectify situations without administering any liquidated damages against the contractors by developing work-arounds to accommodate everyone's needs and goals.

Superintendent Horne clarified that if the Board approves this, a contract will then be entered into and the Board will make it clear that the liquidated damage clause applies to any violation.

Ms. Hilde asked if the \$250,000 is for the life of the contract or a per year amount.

Mr. Peeples stated it is a per year dollar amount.

Mr. Galt, President, Harcourt Assessment, Inc., stated he appreciates the importance of cost and pointed out that 80% of the difference (\$5.5M) between the CTB and Harcourt bids is in years four and five. During neither of the previous two contracts did the state go into year four and five. Only twenty per cent of the difference is in the first three years.

Dr. Diethelm read the email from Dr. Alex Duran in total. (Please see materials packet)

Motion by Superintendent Horne that the recommendation be accepted. Seconded by Ms. Hilde.

Ms. Hilde asked if it is possible for another best and final offer to be requested once the best and final offer has been received from vendors. Ms. Hilde also stated that it may be recommended that the Board adjourn to executive session to receive legal advice on this issue and other questions.

Ms. Epstein recommended the Board adjourn to Executive Session to receive legal advice.

Motion at 1:10PM to go into Executive Session to receive legal advice by Dr. Diethelm.

Board adjourned Executive Session at 1:20PM, concluded lunch and re-convened at 1:40PM.

Ms. Basha reiterated the motion on the floor to approve the recommendation to contract with CTB McGraw-Hill to provide the AIMS Dual Purpose Assessment.

Ms. Hilde stated she appreciated the patience demonstrated while the Board received legal advice and got answers to questions. She stressed the weightiness of this decision since schools and teachers have been burned in the past by not receiving timely reports and the Board does not want to let this happen again. The Board is serious about this issue and will hold the contractor to the terms.

Dr. Diethelm stated this must succeed with no excuses. Dr. Diethelm asked Dr. Carriveau for his view and confidence in the success over the next few years in particular with timeliness and getting disaggregated student data so we can move from rating schools to improving students' performance, and as a specific issue with the contractor proposed in this recommendation.

Dr. Carriveau stated it was awkward to answer since he was one voice in six on the committee and decisions were made in that context. He stated that the immediate need is to go forward with the Dual Purpose Assessment plan in '04-'05 and then set up the alignment committee. The RFP is very clear in what needs to be done but he is uncomfortable answering such a direct question and would rather have members of the committee present.

Superintendent Horne committed, as a department, to full enforcement of the contract if this resolution passes as his personal credibility is on the line and they will not waiver in assessing penalties.

Dr. Diethelm stated that issuing financial penalties is the way of expressing the Board's concern, but what they are really trying to say is that this has to succeed and the contractor, the Department, the schools, the districts have to do everything to make it work expeditiously and as effectively as possible.

Dr. Diethelm wanted to get that feeling generated and express that everyone is going to make it work.

Dr. Carriveau stated that various protocols have been put into place that the contractor has to follow and it will happen.

Ms. Basha added that accountability is talked about a lot of our children, our teachers, and our schools and we have to ask it from ourselves, so this vote is taken very seriously in what will be asked of the Department and the contractor that receives this award.

Ms. Hoover asked if CTB still has to go through the process to present the contract and sign. In the event they decided they didn't want to sign what would the Board do in that case?

Ms. Epstein stated that having submitted their best and final offer, the contractor is committed.

Ms. Basha reiterated the motion to approve the recommendation to contract with CTB McGraw-Hill for purposes of providing the AIMS Dual Purpose Assessment in grades 3-8 and the AIMS assessment in grades 10-12. *Motion passes.*

Superintendent Horne commended all those who worked on the committee for their hard work and willingness to go above and beyond.

H. Presentation and Discussion Regarding Activities of the AZ READS Task Force, Including, But Not Limited to Initial Recommendations and Status Reports.

Ms. Marie Mancuso, Deputy Associate Superintendent, Standards Based Teaching and Learning, School Effectiveness, Arizona Department of Education, presented background information regarding the AZ READS Task Force, including a progress report and activities to date. Four meetings have been held to date and recommendations in the form of a report will be presented next month to this Board which will address subsection A and D of this legislation.

Dr. Diethelm asked if the task force is able to learn what other states are doing.

Ms. Mancuso has asked Dr. Deb Simmons to present converging research and also provide information about other states' activities and assessments at the K-3 level. The task force has also followed the federal guidelines for the use of assessments at the K-3 level to insure Arizona is in compliance with federal requirements and to insure that in the future if they have a short recommended list of assessments that those will insure that the districts are in a strong position to receive federal funding. Ms. Hoover noted the community colleges in Arizona provide a lot of infrastructure and work collaboratively with the universities to coordinate efforts. Ms. Hoover suggested that in the future perhaps a community college president or liaison be included in the task force. Ms. Mancuso expressed appreciation for that suggestion and it will be considered in the future. Ms. Basha commended Ms. Mancuso on the inclusiveness of the group and on the work done to date.

I. Presentation, Discussion and Consideration to Approve Opening a Docket and Notice of Proposed Rulemaking for R7-2-615 Regarding School Psychologist Certification.

Ms. Farley presented the rules initiated, at the request of school psychologists brought to the Board's attention in January 2004. The rules will clarify that in order to serve as a school psychologist, one must have a school psychologist certificate administered by the State Board of Education. This is not to be confused with the statute for the State Board for Psychological Examiners, which governs other psychologists but defer to our rules for school psychologists. In addition, modifications have been made to the practicum to refer to it as a supervised internship, terms which are consistent with those used in the school psychology field and that reflect national standards for hour requirements. In addition, an interim psychologist certificate has been created which mirrors the teacher intern certificate in terms of allowing a person with a certain level of education and is enrolled in continuing education to serve on the intern certificate and gain experience at the same time they are going to school to complete the school psychologist degree. If these rules are approved, they will be published and go out for public comment, which will be brought back to this Board.

Motion by Ms. Hoover to approve notice of docket opening and notice of proposed rulemaking for R7-2-615 regarding school psychologist certification. Seconded by Ms. Bittner. *Motion passes.*

J. Presentation and Discussion Regarding R7-2-604 Professional Preparation Programs and Teacher Preparation Program Requirements. Consideration to Approve Institutional Recommendations for Renewing Board-Approved Professional Preparation Programs. Pursuant to A.R.S. §38-431.03(A) (3) and (4), the Board may vote to go into Executive Session for consultation and legal advice and/or for instructing the Board's attorneys regarding the Board's position in connection with this issue.

Ms. Farley presented the background and challenges of the Institutional Recommendation (IR) program existing in current State Board Rule and the need to move forward with some action for the programs that have had IRs approved by this Board, most of which occurred in 1998, 1999, and 2000. Some programs have received extensions. There is not current Board authority to provide IRs in some areas and Ms. Farley asked the Board to cease to provide IRs in these areas:

- Endorsements; and
- Courses that are not part of a "program".

Ms. Farley then outlined the following options the Board has with regard to the schools with recently expired IRs":

- Adopt the recommendations from the review teams as detailed in "Attachment A"; approve recommended programs retroactively and approve specified programs with conditions that they meet the required program hours by Fall 2004 graduates receiving an IR. (NOTE: This means 30 education hours for secondary degrees and 45 education hours for elementary degrees.)

OR

- Establish that the existing IR's have expired and all schools must re-apply for initial conditional approval with an evaluation rubric approved by this Board.

OR

- Approve all existing IR's for a second conditional program approval due to the large differences in program submissions this year compared to programs that the Board approved in 1999, 2000 and 2001. This approval is based on these programs meeting the MINIMUM requirements in Board Rule R7-2-605 and reflects only the completion of full programs submitted by the institutions as detailed in "Attachment B".
(NOTE: The Board should advise staff as to whether they are satisfied with the current system or direct staff to develop better renewal criteria and bring recommendations to the Board prior to the next review of these schools.)

OR

- Approve all existing IR's retroactively to their expiration date and provide for a future expiration date (possibly December 31, 2004) and direct staff to begin the process for eliminating the IR Board Rule R7-2-605 from our rules due to the other current available avenues for obtaining certification without the Board administering this process.

Superintendent Horne suggested a modification to Option 3 adding a two-year conditional extension, that if the Board adopts new rules/requirements, the extension will be conditional on the institutions complying with any new rules/requirements the Board may adopt. The Department is in the process of reviewing these new requirements and a task force will be bringing recommendations to this Board. One recommendation may be that the course requirements be more specific and the hours may be lower than 30-45. In view of that, it doesn't make sense to make institutions increase hours, if they are slightly below the 30-45 range, if there is a possibility the Board will be changing to a number they are now using. It makes more sense to allow institutions to continue their IR until after the Board has considered all the recommendations and specifies any modifications, then all institutions with IRs will be required to comply at that time.

Dr. Diethelm voiced his view advocating Option 2 as we see where public education is going in Arizona. In particular, Dr. Diethelm suggested additional criteria that follow along the lines of instruction, learning, how to teach to Arizona standards, how to develop lesson plans, and how to apply assessment data to improve instruction and provide intervention to student performance. Another example would be instruction in how to use the ELL assessment, approved today. In addition, Dr. Diethelm would specify the area of understanding the early childhood brain and intellectual development with specific reference to the Arizona Readiness Standards.

Superintendent Horne stated the only difference in Option 2 and the modified Option 3 is to maintain status quo until changes such as those listed by Dr. Diethelm are made by this Board.

Dr. Diethelm noted there wouldn't be movement as quickly as they might like if there is a feeling that everything is okay for a year or two. He suggested that institutions be notified their IR is lapsed, here are the things that are being considered, and the institutions will be made aware of coming changes and can participate in the task force as the changes are developed.

Superintendent Horne suggested changing the wording on the Option to state changes are anticipated and at the time changes are made, the institutions will have to conform.

Ms. Hilde noted that IRs impact the student in the pipeline. There should be a significant, complete overhaul with standards that have been easily identified, with a full process that will apply significant responsibility to all schools that do teacher preparation. As a result there will be a timeline for compliance for these schools. Ms. Hilde was looking more at Option 3 with a change that calls for a task force to re-develop. She also voiced concern about hard and fast timelines. Would it be better to stagger these schools so that as they go through the approval process all schools are not being looked at at the same time.

Dr. Diethelm agreed with the staggering idea. He noted that he separated IRs from certification.

Ms. Farley responded regarding the staggering terms and process issues, and suggested the group could look at these issues and bring back recommendations to this Board. Should the Board modify Option 3, it is recommended the second conditional program approval be based on what was submitted and this be retroactive to the last expiration of these groups which would be December 2003, so that those in the

programs now maintain their IRs and then continue until December 2005 when rules might be modified. The group is ready and willing to work on these issues at the Board's recommendation.

Ms. Kathy Wiebke, Deputy Associate Superintendent for Highly Qualified Professionals, Arizona Department of Education, addressed the Board stating the group is anxious to begin working on this complex issue and she understands the desires expressed by the Superintendent, Dr. Diethelm and Member Hilde. The group will move full steam ahead at the recommendation of the Board as the universities are expecting it and the Department wants to be of service to them.

Ms. Farley clarified that it is appropriate for the Board to act with regard to the endorsement and programs issue and it is helpful to have motions in those areas. In the past, the Board has approved IRs in these areas, and after further review and consultation with legal advice, it is not believed that this is appropriate.

Member from the public addressing the Board on this issue:

Mr. Don Flake, Arizona Teachers Institute, commented this is a complex process, and something this Board can do to make a profound difference in teacher quality in the state is to go beyond the ability of the teacher to pass a test and regurgitate the information and go to actual skill-based assessments, where the teacher demonstrates their skills in front of children. The second request was to have clarity of message regarding requirements.

Superintendent Horne addressed Ms. Hilde's concern regarding setting a timeline that makes sense for students in the pipeline and the possibility of a staggered set of renewals and asked if it would make sense to do a modified Option 3 with a strong message that things will change and institutions can plan on it, understanding that when the full idea is presented, a timeline will be provided that takes the students in the pipeline into account.

Ms. Hilde responded that those are process points and do not have to be part of today's motion. Today the Board just needs to approve the existing IRs for a time period, retroactive to December 2003, and if needed, the direction to establish the task force to rebuild the process for teacher programs.

Motion by Superintendent Horne to adopt a modified Option 3 which will extend for two years beginning December 2003 the existing IRs as the programs stand now with the approval being conditional. One of the conditions is that should the Board change the requirements at any time, or eliminate IRs, then all institutions will be required immediately to change their programs to comply with Board action whenever it occurs and that change is likely.

Ms. Hilde added that the wording should be changed to require program changes within a directed timeline not immediately.

Superintendent Horne directed the motion to be changed to accommodate this wording.

Ms. Farley clarified the programs being referenced are the ones that applied for approval at this most recent time. Some programs have changed since their initial application and offerings have changed, but this is based on everything they have submitted to date.

Ms. Farley reiterated the motion as follows:

Motion to extend for two years the existing programs as submitted in this round. Approval is retroactive to December 2003, and approval during this period is conditional on programs complying with modifications to Board rules or other direction by the Board with regard to IRs or certification on the specified timeline should it occur within that two years. Seconded by Ms. Hilde.

Dr. Diethelm asked if this wording kicks off the task force activity and Superintendent Horne replied that the task force activities have already begun.

Ms. Basha asked to hear the motion again.

Ms. Farley informed members that after consulting with legal counsel, that because there is an IR program in rule and we have certification rules and statutory issues relating to certification, while the Board has adopted action based on the Board moving forward with rulemaking, sometimes those rules change during the process. Typically an action by this Board would not allow us to initiate programmatic requirements but the Board needs to complete the rulemaking process in order to require programs to comply with those modifications. A change in the vision needs to be seen all the way through that process.

Superintendent Horne recognized this point but we don't know what ideas will occur over time. If the suggestion is Board action other than a rule, which is very lengthy, it would have to be considered at that time whether the Board has the power to do that. He wants to include it as part of this motion so that the option remains open. If some action is proposed, other than a rule change, we could consider at that time if the Board has the power to require immediate implementation.

Ms. Farley reiterated the motion to extend for two years, with conditional program approval, the current IR programs based on the program submissions received this year. This extension is conditional upon the program's complying with changes in Board rule or official direction by the Board during that time retroactive to December 2003.

Motion passes.

Superintendent Horne added, clarifying this motion, this extends for two years beginning December 2003, and is conditional on programs' complying with Board rules or other direction by the Board, including elimination of programs.

Ms. Farley mentioned that the Board will have to direct the policy for additional program renewals that are up this Spring and over the Summer that will be expiring and are not included in this group. There are also requests for new programs. At the next meeting, recommendations will be brought to this Board for conversation and recommendations. At this time, Ms. Farley asked the Board to act on the endorsement and non-program coursework and issues.

Ms. Hilde moved to cease providing Board approval for endorsements as it is not covered by our Board Rules, effective May 31, 2004. Seconded by Ms. Hoover. *Motion passes.*

Dr. Diethelm asked why we would do this instead of fixing the rules.

Ms. Farley clarified that the current certification rules for endorsement provide very specific courses that must be taken, so an IR doesn't provide any more clear direction but needs to be matched up with what the certification rules say and any rule changes will take a while to get in place.

Ms. Hilde asked if the motion stands alone without that inclusion.

Ms. Farley stated she believes it is clear. The rule, R7-2-604, can be referenced for clarification.

Motion by Ms. Hilde to cease to provide Board approval for IRs for courses that are not part of a "program" as this is inconsistent with our Board Rules and covered by other certification rules where program completion is not achieved, effective May 31, 2004. Seconded by Ms. Hoover. *Motion passes.*

7. Motion by Dr. Diethelm to adjourn at 2:35PM.